



COURT FILE NUMBER      **1601-02201**

COURT                      COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE        CALGARY

PLAINTIFF(S)            **BANK OF MONTREAL**

DEFENDANT(S)          **BUMPER DEVELOPMENT CORPORATION  
LTD., and BUMPER DEVELOPMENT  
CORPORATION**

DOCUMENT              **APPLICATION RE: DISCHARGE ORDER**

ADDRESS FOR SERVICE   **Fasken Martineau DuMoulin LLP**  
AND CONTACT            Barristers & Solicitors  
INFORMATION OF        3400 First Canadian Centre  
PARTY FILING THIS      350 - 7 Avenue S.W.  
DOCUMENT               Calgary, AB T2P 3N9

**Attention: Travis Lysak**  
                                 Telephone: (403) 261-5350  
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                                 File No.: 303718.00002

**NOTICE TO RESPONDENT(S):**

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

**Date:** June 22, 2017

**Time:** 11:00 a.m.

**Where:** Calgary Court Centre, 601 - 5 Street S.W., Calgary, Alberta, T2P 5P7

**Before Whom:** Justice K. D. Yamauchi

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. A Discharge Order, substantially in the form attached as **Schedule “A”**, providing for, among other things:
  - (a) the unconditional and absolute Discharge of the Receiver as receiver of Bumper Development Corporation Ltd. and Bumper Development Corporation (“collectively, **Bumper**”);
  - (b) such further and other relief as may be sought by the Receiver and this Honourable Court may permit

**Grounds for making this application:**

The grounds for making this application are set out more fully in the 6<sup>th</sup> Report, but can be summarized as follows:

**(A) Background**

2. Any capitalized term not defined in the Application shall take the meaning ascribed to it in the 6<sup>th</sup> Report.
3. Effective February 16, 2016, pursuant to an order of the Honourable Justice B. Nixon granted in these proceedings (the “**Receivership Order**”), Alvarez & Marsal Canada Inc. was appointed receiver (the “**Receiver**”), without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the “**Property**”) of Bumper pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3, as amended, in the within action (the “**Receivership Proceedings**”).
4. The Receivership Order empowers and authorizes, but does not obligate, the Receiver to, among other things, manage, operate and carry on the business of Bumper and to take possession and control of the Property of Bumper and any and all proceeds, receipts and disbursements arising out of or from the Property, and to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business.

**(B) The 6<sup>th</sup> Report**

5. The Receiver’s actions and activities and the Statement of Receipts and Disbursements, as described in the 6<sup>th</sup> Report, are lawful, proper, and consistent with its powers under the Receivership Order.

**(C) Professional Fees**

6. All of the actions in respect of the professional fees and disbursements incurred by the Receiver and its legal counsel during the course of the administration of the within proceedings are reasonable, have been validly incurred in connection with the discharge of the Receiver's obligations, which have been dutifully performed, and now have been completed or are about to be completed.

**(D) Discharge**

9. Subject to the Receiver making the distributions contemplated herein, the Receiver will have completed its duties and obligations under the Receivership Order and it should be released from any and all claims and obligations arising as a result of the Receiver acting in its capacity as Receiver of Bumper, excepting those claims and obligations that arise as a result of gross negligence or willful misconduct.

**(E) Distributions**

7. Encana's security as against Bumper is valid and enforceable and ranks in priority to all remaining creditors of Bumper and the indebtedness owed to Encana by Bumper exceeds the recoveries made by the Receiver in the receivership.

**Material or evidence to be relied on:**

8. The 6<sup>th</sup> Report of the Receiver dated June 20, 2017.
9. Affidavit of Service.
10. The other pleadings and materials filed in this Action and such further and other material as counsel may advise and this Honourable Court may permit.

**Applicable rules:**

11. Rules 1.3, 1.4, 6.3, and 13.5(2) of the *Rules of Court*; and
12. Such further and other rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and Regulations:**

13. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;
14. *Judicature Act*, R.S.A. c. J-2; and

15. Such further and other Acts and Regulations as counsel for the Receiver may advise or this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

16. Not applicable.

**How the application is proposed to be heard or considered:**

17. Before the presiding Justice K. D. Yamauchi in Chambers.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"  
DISCHARGE ORDER

COURT FILE NUMBER	<b>1601-02201</b>
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF(S)	<b>BANK OF MONTREAL</b>
DEFENDANT(S)	<b>BUMPER DEVELOPMENT CORPORATION LTD., and BUMPER DEVELOPMENT CORPORATION</b>
DOCUMENT	<b>ORDER FOR FINAL DISTRIBUTION, APPROVAL OF RECEIVER'S AND ITS COUNSELS' FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES AND DISCHARGE OF RECEIVER</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<b>Fasken Martineau DuMoulin LLP</b> Barristers & Solicitors 3400 First Canadian Centre 350 - 7 Avenue S.W. Calgary, AB T2P 3N9  <b>Attention: Travis Lysak</b> Telephone: (403) 261-5350 Facsimile: (403) 261-5351 Email: tlysak@fasken.com File No.: 303718.00002

Date on which order was pronounced:	June 22, 2017
Location where order was pronounced:	Justice Chambers, Calgary
Name of Justice who made this order:	Justice K. D. Yamauchi

**UPON THE APPLICATION** of Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Bumper Development Corporation Ltd. and Bumper Development Corporation (collectively, the "**Debtor**"); **AND UPON** reading the Application, the Sixth Report of the Receiver dated June 20, , 2017 (the "**6<sup>th</sup> Report**"), the Affidavit of Service and other materials filed in the

proceedings; **AND UPON** hearing the submissions of counsel for the Receiver and any other interested parties appearing at the hearing of the within application, **IT IS ORDERED THAT:**

### **GENERAL**

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the 6<sup>th</sup> Report.
2. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

### **ACCOUNTS AND ACTIVITIES**

3. The Receiver's accounts for fees and disbursements, as set out in the 6<sup>th</sup> Report, are hereby approved without the necessity of a formal passing of its accounts.
4. The accounts of the Receiver's legal counsel Fasken Martineau DuMoulin LLP are hereby approved without the necessity of a formal assessment of its accounts.
5. The Receiver's activities as set out in the 6<sup>th</sup> Report and the Statement of Receipts and Disbursements as attached to the 6<sup>th</sup> Report are hereby ratified and approved.
6. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing, any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
7. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.

## DISCHARGE

8. Upon the Receiver filing with the Clerk of the Court a Receiver's Certificate confirming that the distributions described in paragraph 11 of this Order have been completed, the Receiver shall be unconditionally and absolutely discharged as receiver of the Debtor. The Receiver shall have no further duty, liability or obligation with respect to the Property.
9. Notwithstanding its discharge herein, the Receiver shall:
  - (a) remain receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and
  - (b) continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as receiver.
10. As soon as possible after the granting of this Order, Encana and the current directors and shareholders of the Debtor (the "**Current Directors and Shareholders**"), shall be provided with an opportunity by the Receiver to collect the books and records, which include any and all documents, accounting records, and other papers, records and information related to the business and affairs of the Debtor ("**Books and Records**"). If the Current Directors and Shareholders or Encana do not collect the Books and Records on or before July 14, 2017, the Receiver is hereby authorized to immediately destroy the Books and Records. If both Encana and the Current Directors and Shareholders intend to collect the Books and Records, the originals shall be provided to Encana, with the Current Directors and Shareholders being provided with an opportunity to copy such records as they wish on or before July 31, 2017.

## DISTRIBUTION AND ARTWORK

11. The Receiver is hereby authorized and directed to make the following distributions to Encana, after paying outstanding professional and any outstanding invoices properly



payable by the Receiver, and otherwise completing the administration of the receivership as discussed in the 6<sup>th</sup> Report:

- (a) a distribution in the amount of \$350,000 to be made as soon as possible after the granting of this Order; and
  - (b) a Final distribution of all remaining funds realized by the receiver after the administration of the receivership has been completed.
12. The Receiver is hereby authorized and directed return control of all Remaining Artwork owned by the Debtor's estate to the estate upon its discharge.

#### **SERVICE**

13. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.

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Justice of the Court of Queen's Bench of Alberta